



MILPITAS PLANNING COMMISSION STAFF REPORT

October 14, 2015

APPLICATION: **Paradise Spa Expansion - UA15-0004 – 200 Serra Way Suite 4:**
A request for a 782 square foot tenant expansion to accommodate three new massage rooms, tanning room, and ancillary space to an existing massage establishment.

RECOMMENDATION: **Conduct Public Hearing and Adopt Resolution No. 15-032 approving Conditional Use Permit Amendment No. UA15-0004 to allow for a 782 square foot tenant expansion to an existing massage establishment subject to the findings and conditions of approval.**

LOCATION:

Address/APN: 200 Serra Way Suite #4 (APN 86-07-023)
Area of City: West Calaveras and Serra Way

PEOPLE:

Project Applicant:
Consultant(s): NA
Property/Business Owner:
Project Planner: Cindy Hom, Assistant Planner

LAND USE:

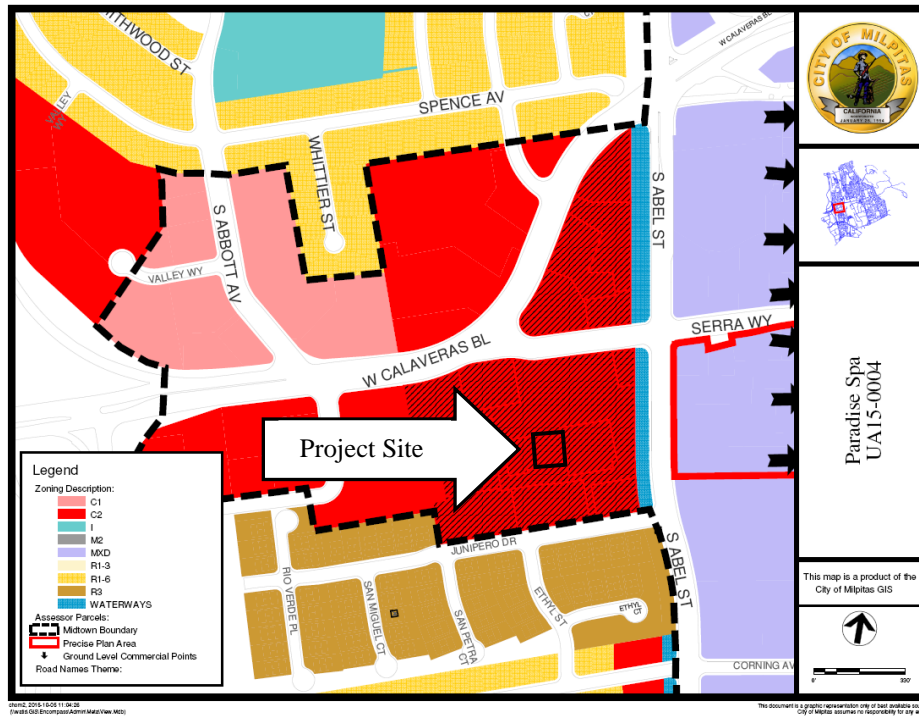
General Plan Designation: General Commercial (GNC)
Zoning District: General Commercial (C2)
Overlay District: Gateway Office Overlay (OO)
Specific Plan: Midtown Specific Plan

ENVIRONMENTAL: Categorically Exempt from further environmental review pursuant to Section 15301 (Existing Facilities) of the California Environmental Quality Act (CEQA).

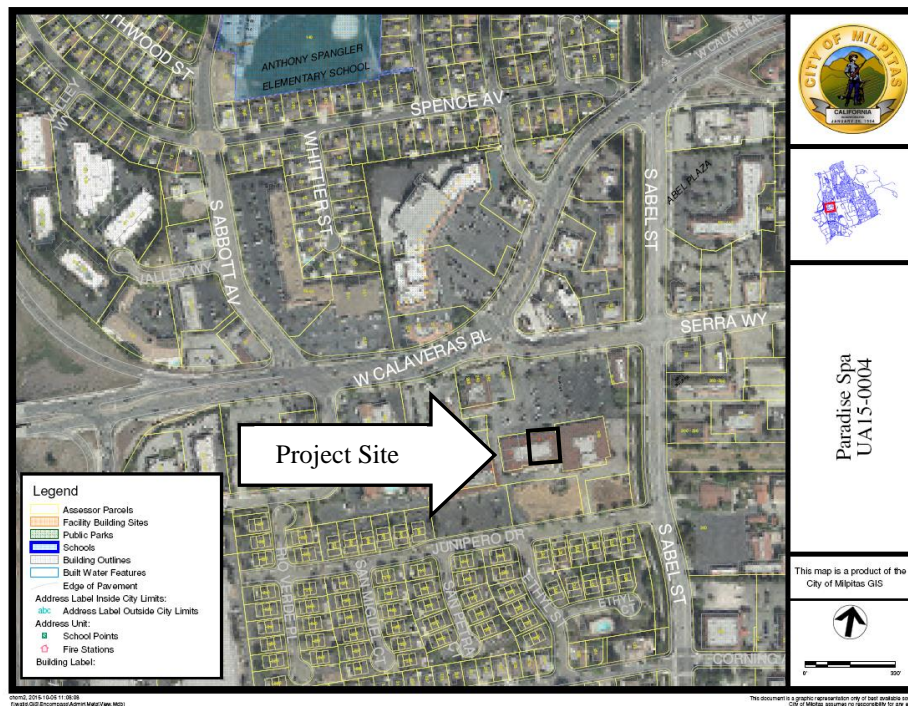
EXECUTIVE SUMMARY

The applicant is requesting a Conditional Use Permit Amendment to accommodate a 782 square foot expansion of an existing massage establishment located within the Serra Shopping Center. The project entails interior modifications to provide three additional massage treatment rooms, a new tanning room and ancillary space. The previous tenant obtained a Conditional Use Permit (UP11-0027) in September 2011 to provide foot massage services and two massage treatment rooms. Ownership of the business has changed and the new owner wishes to provide additional massage rooms and tanning services. Consequently, the Conditional Use Permit requires an amendment for modifications to the approved floor plans.

Map 1 Project Location



Map 2 Project Site



BACKGROUND

History

On September 14, 2011, the Planning Commission approved Conditional Use Permit No. UP11-0027 for a 1,856 square foot massage establishment, and operating hours of 10:00 AM to 10:00 PM daily.

The Application

On May 13, 2015 Zhen Quan Zhang submitted a Conditional Use Permit Amendment request for a 782 square foot expansion of the massage establishment. The application is submitted pursuant to Milpitas Municipal Code (MMC) XI-10-57.03-1 (J) (Modifications of or Amendment) of the Milpitas Zoning Ordinance for Planning Commission review and approval.

PROJECT DESCRIPTION

Overview

The project request is an amendment to the conditional use permit (UP11-0027) to allow a 782 square foot expansion of an existing massage establishment. The project entails interior modifications to allow for three additional massage rooms, tanning room, and ancillary space for employee break room and storage area. The hours of operations will remain the same as previously approved: 10:00 AM to 10:00 PM seven days a week.

Location and Context

The project site is located within the Serra Shopping Center. The proposed massage establishment would occupy 2,638 square foot space between Big Lots store and the Milpitas Furniture store. The Serra Center is bounded by South Abel Street to the east, Serra Way to the north, South Abbott Avenue and commercial buildings to the west, and Junipero Drive to the south. Surrounding land uses include residential uses to the south and various commercial retail uses to the east, north and west. See previous page for a vicinity map.

PROJECT ANALYSIS

General Plan, Specific Plan, Municipal Code, and Zoning Conformance

General Plan

This project conforms to the intent of the General Commercial designation in that it provides a commercial service for personal and business services accessed primarily by the automobile in a shopping center. The project is also consistent with the implementing policies of the General Plan Land Use Element to promote economic development and provide a wide range of retail sales.

The table below outlines the project's consistency with applicable General Plan Guiding Principles and Implementing Policies:

Table 1
General Plan Consistency

Policy	Consistency Finding
<p><i>2.a-I-6:</i> <i>Endeavor to maintain a balanced economic base that can resist downturns in any one economic sector.</i></p>	<p>Consistent. The project adds to the retail mix of the Serra Shopping Center by adding health and wellness services in conjunction with retail and various restaurant establishments.</p>
<p><i>2.a-I-7:</i> <i>Provide opportunities to expand employment, participate in partnerships with local business to facilitate communication, and promote business retention.</i></p>	<p>Consistent. The project expands employment opportunities and would help promote business retention by adding to the economic vitality of the shopping center.</p>

Specific Plan

The project is consistent with the Midtown Specific Plan Land Use Plan. According to the Land Use Plan, General Commercial uses includes a wide range of retail sales, personal and business services accessed primarily by automobile. Individuals and patrons would primarily use automobiles to access the business because it is located along Calaveras Boulevard, and it is in an existing shopping center with businesses served by automobiles. The project implements the Midtown Specific Plan by adding health and wellness services in conjunction with retail and various restaurant establishments found in the Serra Shopping Center.

Milpitas Municipal Code III-6-7, Massage Establishment

The purpose and intent of the Massage Ordinance is to protect the public health, safety and welfare by providing performance standards for the operation of massage establishments, off-premises massage services, and persons offering massage. Provisions of the Massage Ordinance ensure that persons offering massage services conduct their work in a lawful, professional manner and are duly licensed and possess the minimum necessary qualifications to perform massage services. As conditioned, the proposed establishment shall demonstrate compliance with Milpitas Municipal Code III-6-1 (Massage Establishment) prior to business license issuance for an on-premise establishment.

Zoning Ordinance

The project is consistent with the purpose of the General Commercial (C2) Zone in terms of land use and development standards. Massage establishments are conditionally permitted used in the General Commercial zones and provides a type of beauty and wellness service that caters to regional and local customers. The proposed massage establishment provides for a compatible land use with the other retail, personal services such as beauty salons/barber shops, entertainment, and restaurant uses within the center. The proposed use would be the only business in the Serra Shopping Center offering full-service massage treatments and tanning services, thereby expanding the range of services and products available for consumers

Development Standards

The project proposes no changes to the existing building footprint, building setbacks or height. As such, the project site remains in compliance with the General Commercial Zoning development standards.

Parking

The project complies with the City of Milpitas's parking requirement. Per Table 53.09-1 of the Milpitas Zoning Code, a massage establishment requires one parking space per 200 square feet. The project meets this requirement by providing the thirteen (13) parking spaces on site.

Health, Safety and General Welfare

According to MMC XI-10-5.02-1 (3), massage establishments are conditionally permitted uses in the General Commercial (C2) zone. As part of the Conditional Use Permit, the City must determine that conditionally permitted uses are not detrimental or injurious to property or improvements in the vicinity nor to the public health, safety, and general welfare. As conditioned, the project will not be detrimental or injurious to property or improvements in the vicinity nor to the public health, safety, and general welfare. Furthermore, the hours of operation (10AM to 10PM) will not be disruptive to adjacent commercial businesses because they maintain similar hours as well, and the hours of operation are consistent with the Massage Ordinance per section III-6-7 (c).

The Milpitas Police Department reviewed the project, and staff requested any history of calls for service to the previous massage establishment. There are no reported incidents or service call associated with the business. However, staff recommends as a condition of approval that the storefront window remain clear and unobstructed to ensure safety of employees and customers. Conditions of Approval require that the doors to the private rooms do not employ locks. Based on the historical operations of the massage establishment, and the proposed conditions of approval, the business will not have a detrimental effect on the health, safety, and general welfare of the citizens.

FINDINGS FOR APPROVAL

A finding is a statement of fact relating to the information that the Planning Commission has considered in making a decision. Findings shall identify the rationale behind the decision to take a certain action.

Conditional Use Permit Findings [Section XI-10-57.04 (F)]:

- i. *The project will not be detrimental or injurious to property or improvements in the vicinity nor to the public health, safety, and general welfare.*

Analysis: As conditioned, the project will not be detrimental or injurious to property or improvements in the vicinity nor to the public health, safety, and general welfare. The project is located in an existing retail center, and is substantially surrounded by other commercial uses that

are similar in nature. The proposed hours of operation (10AM to 10PM) will not be disruptive to adjacent commercial businesses because they maintain similar operating hours and they consistent with Massage Ordinance requirements. According to the Police Department's review, the project does not appear to create any adverse effects to the peace, health, safety, or welfare of persons residing or working in and around the surrounding area. There are no records of any prior police calls relating to this establishment since it began operating in 2011.

ii. *The proposed use is consistent with the Milpitas General Plan*

Analysis: This project conforms to the intent of the General Commercial designation in that it provides a commercial service for personal and business services that cater and service to the general commercial needs of the City. The project is also consistent with the implementing policies of the General Plan Land Use Element to promote economic development and provide a wide range of retail sales:

- Implementing Policy No. 2.a-I-6: Endeavor to maintain a balanced economic base that can resist downturns in any one economic sector.

Consistent: The project adds to the retail mix of the Serra Shopping Center by adding further health and wellness services in conjunction with retail and various restaurant establishments.

- Implementing Policy No. 2.a-I-7: Provide opportunities to expand employment, participate in partnerships with local business to facilitate communication, and promote business retention.

Consistent: The project expands employment opportunities and would help promote business retention by adding to the economic vitality of the shopping center.

iii. *The use is consistent with the Milpitas Zoning Ordinance*

Analysis: The project is consistent with the purpose of the General Commercial (C2) Zone and development standards. The project is consistent with the purpose and intent of the General Commercial zone in that it provides a type of health and wellness service that caters to regional and local customers. Further, the massage establishment provides for a compatible land use with the other retail, personal services, entertainment, and restaurant uses within the center. The massage establishment is a commercial use that enhances the shopping center because provides variety and vitality to the shopping center. The project complies with the development standards for the General Commercial Zoning District and parking requirement by providing the thirteen (13) parking spaces on site.

ENVIRONMENTAL REVIEW

The Planning Division conducted an environmental assessment of the project in accordance with the California Environmental Quality Act (CEQA). The project is categorically exempt from further CEQA review under Section 15301 of the CEQA Guidelines, Existing Facilities. This project is categorically exempt under Section 15301 because the project entails interior

alternations to an existing massage establishment.

PUBLIC COMMENT/OUTREACH

Staff provided public notice the application in accordance with City and State public noticing requirements. At the time of writing this report, there have been no inquiries from the public. A notice was published in the Milpitas Post on September 25, 2015. In addition, mailed notices were sent to owners and occupants within 1,000 feet of the project site. A public notice was also provided on the project site, on the City's Website, www.ci.milpitas.ca.gov, and posted at City Hall.

CONCLUSION

The project will promote a mix of retail and commercial service uses that will be compatible with existing business and neighboring residents. The project is consistent with the General Plan and Zoning in terms of land use, encourages a stable development, and provides new employment opportunities. As conditioned, the project location and hours of operation will not be disruptive to adjacent residential neighbors and businesses.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission:

1. Open and Close Public Hearing to receive comments; and
2. Adopt Resolution No. 15-032 approving Conditional Use Permit No. UA15-0004 to allow for 782 square foot tenant expansion to an existing massage establishment subject to the findings and conditions of approval.

ATTACHMENTS

A: Resolution No. 15-032

B: Project Plans